IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.21525 OF 2004

Jeena & Company ... Petitioner

V/s.

Office of the Recovery Officer
Employees State Insurance
Corporation & Anr. ... Respondents

Mr.Sanjay Udeshi for Petitioner

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 6, 2004**

P.C.:

. Not on Board. Mentioned at 4.45 pm.

2. This Writ Petition is not maintainable at all since the Petitioner has an alternate remedy under the Employees' State Insurance Corporation Act, 1948. The Petitioner has not exhausted that remedy and has rushed to this Court unnecessarily. The Petition, therefore, deserves to be dismissed.

3. It appears that a prohibitory order has been issued on 26.7.2004 by the Recovery Officer, Employees State Insurance Corporation, Mumbai directing the B.N.P. Paribas Bank, Respondent No.2 herein and the Petitioner's bankers, to make payment of Rs.7,57,313/-

to the Employees State Insurance Corporation from the bank account of the Petitioner company. A copy of this order was received by the Petitioner on 5.8.2004 in the evening. Mr.Udeshi, learned Advocate for the Petitioner, states that the bank has threatened to deduct this amount from the account of the Petitioner Company by the end of the day for paying over the same to the Recovery Inspector.

4. Mr.Udeshi submits that the Petitioner be permitted to institute proceedings before the appropriate forum and the prohibitory order be stayed till then. The bank, Respondent No.2 herein, shall not pay over this amount to the Employees State Insurance Corporation but will retain an amount of Rs.8 lacs from the bank account of the Petitioner with it till orders are passed by the appropriate forum. If no orders are obtained by the petitioner within a period of one week from today, the bank will implement the prohibitory order issued on 26.7.2004.

5. Writ petition is dismissed accordingly.

6. Parties to act on an authenticated copy of this order.